



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
SPOTSYLVANIA COUNTY
FOR
CHANCELLOR CLOSED LANDFILL
Solid Waste Permit No. 503**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Spotsylvania County, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" or "Landfill" means the Chancellor Closed Landfill, located at 5917 Harrison Road in Fredericksburg, Virginia, which is owned and operated by the Spotsylvania County.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
6. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
8. "Permit" means Solid Waste Permit (SWP) No. 503, which was issued under the Virginia Waste Management Act and the Regulations to Spotsylvania County on July, 28, 1986.
9. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
10. "Spotsylvania County" means Spotsylvania County, a political subdivision of the Commonwealth of Virginia. Spotsylvania County is a "person" within the meaning of Va. Code § 10.1-1300.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. On July 28, 1986, Spotsylvania County was granted a permit to operate a sanitary landfill by the Commissioner of the Virginia Department of Health, predecessor-in-interest to the Director of DEQ. The Permit allows for the operation of a sanitary landfill.
2. The Facility has been operated as a sanitary landfill since the permit was issued and was certified closed on December 4, 1992. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. On March 10, 2010, Department staff conducted an annual compliance inspection of the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. During the inspection Department staff observed that leachate had leaked from and ponded around one of the Facility's leachate holding tanks located at the southeastern side of the landfill and the leachate had seeped into the nearby creek, an unnamed tributary to Hazel Run, located within the Rappahannock River Basin.

4. The unnamed tributary of Hazel Run is a “waters of the United States” as defined in 9 VAC 20-80-10.
5. Leachate is considered a “pollutant” as defined in 9 VAC 20-80-10, and this discharge was not permitted.
6. 9 VAC 20-80-250(C)(12)(b) requires that a sanitary landfill shall not cause “the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under § 208 or 319 of the Clean Water Act (33 USC § 1251 et seq.), as amended or violates any requirement of the Virginia Water Quality Standards (9 VAC 25-260).”
7. On April 7, 2010, based on the inspection and follow-up information, the Department issued a Notice of Violation to Spotsylvania County for the violations described in paragraphs C(3) through C(6), above.
8. On April 19, 2010, Spotsylvania County submitted a written response to the NOV to DEQ, dated April 15, 2010. The response detailed that landfill staff had checked the level of leachate in the tank on March 9, 2010 and the tank was two-thirds full and had not checked the level on March 10, 2010, therefore Spotsylvania County staff believe that the overflow must have occurred sometime between March 9, 2010 and the DEQ inspection on March 10, 2010. The letter included that Spotsylvania County has implemented an action plan with increased inspection/checks and a log to document the checking of the tanks. This plan was developed and implemented into a Standard Operating Procedure (SOP) on April 29, 2010, to reflect these operational changes. The County also included sampling results of the leachate in the tank to determine the nature of the discharge. In response to the discharge and the inspection, the County also stated that the manhole lid assembly of the tanks would be repaired.
9. On June 1, 2010, Spotsylvania County submitted a letter to DEQ, dated May 26, 2010. The letter detailed that as of May 21, 2010, Spotsylvania County had completed the repairs to the leachate seep area and around the manhole for the tank to prevent future discharges.
10. Based on the results of March 10, 2010 inspection, and the documentation submitted on April 19, 2010, and May 26, 2010, the Board concludes that Spotsylvania County has violated 9 VAC 20-80-250 C.12, as described in paragraphs C(3) through C(5), above.
11. Spotsylvania County has submitted documentation that verifies that the violations described in paragraphs C(3) through C(5), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Spotsylvania County, and Spotsylvania County agrees to pay a civil charge of \$6,300.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Spotsylvania County shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Spotsylvania County for good cause shown by Spotsylvania County, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Spotsylvania County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Spotsylvania County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Spotsylvania County declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or

regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Spotsylvania County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Spotsylvania County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Spotsylvania County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Spotsylvania County shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Spotsylvania County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Spotsylvania County. Nevertheless, Spotsylvania County agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. Spotsylvania County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Spotsylvania County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Spotsylvania County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Spotsylvania County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Spotsylvania County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Spotsylvania County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Spotsylvania County.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Spotsylvania County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29th day of October, 2010.



Thomas A. Faha, Regional Director
Department of Environmental Quality

Spotsylvania County voluntarily agrees to the issuance of this Order.

Date: 9/3/10 By: C. Douglas Barnes, County Administrator
(Person) (Title)
Spotsylvania County

Commonwealth of Virginia

City/County of Spotsylvania

The foregoing document was signed and acknowledged before me this 3rd day of September, 2010, by C. Douglas Barnes who is County Administrator of Spotsylvania County, on behalf of the County.

Nicole L. Dickinson
Notary Public
348851
Registration No.

My commission expires: 8/31/14

Notary seal:

